REMARKS/ARGUMENTS

Applicants appreciate the Examiner's grant of the Telephonic Interview on October 15, 2004. The claims presented herein are those discussed with the Examiner during the Interview.

Claims 1-3, 5-16, 22-26, 32-35, and 57-72 are pending in the Application. Claims 8, 23, 24, 32-35, 57-63, 65, 67, 71, and 72 are canceled, without prejudice. New Claims 73-92 are added.

The drawings are objected to under 37 C.F.R. §1.83(a), as not showing a feature of the invention specified in Claim 69. New FIG. 4 is submitted to address this objection. No new matter is entered with this drawing and the accompanying amendments to the specification. Withdrawal of the objection is respectfully requested.

Claim 69 is rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Applicants respectfully traverse this rejection. To facilitate examination and expedite issuance of the present application into a Patent, Applicants have amended Claim 69, however, in accordance with the Examiner's suggestion. Withdrawal of the rejection of Claim 69 is respectfully requested.

Claims 1-3, 5, 8-14, 16, 22-26, 32-35, 57, 62, 64-66, 68, and 71 are rejected under 35 U.S.C. §103(a) as being unpatentable over a combination of references. Similarly, Claims 6, 7, 15, 58, 59, 60, and 61 are separately rejected under a different combination of references. Applicants appreciate the Examiner's indication that certain of the claims recite patentable subject matter.

Applicants traverse each of the above §103 rejections and maintain the arguments previously presented in earlier Responses to Office Actions (*e.g.*, Responses dated 11/18/2002, 01/12/2004, 03/17/2004, and 06/23/2004.) As set forth in these Responses, the claims are patentable over any combination of the cited references: OSHA; Garren '241; Garren '347;

Michael; Rodriguez; Perlman; and Asa. To facilitate the issuance of the present Application, Applicants have amended the rejected independent Claims to incorporate subject matter which the Examiner has indicated to be patentable. The present Amendment should not be construed, however, as Applicants' admission that the claims previously submitted are not patentable. It is the Applicants' intent to resubmit, in a later filed continuation application, independent Claims in the form prior to the present Amendment.

Independent Claim 1 has been amended to incorporate subject matter which the Examiner has indicated to be patentable. Specifically, the apparatus of Claim 1 has been amended to further recite a glass enclosure resting within the container portion and surrounding the chemical substance. Accordingly, Claim 1 and claims dependent from Claim 1 are in condition for allowance.

Independent Claim 22 recites a method of fit testing respiratory protection equipment in a local environment by presenting a detectable indicator gas therein. As well, Claim 22 has been amended to further recite subject matter which the Examiner has indicated as being patentable. Specifically, the method of Claim 22 further recites:

> wherein said step of providing a polymeric squeeze bulb includes ensuring that said step of operating the squeeze bulb does not generate a smoke volume exceeding a predetermined volume by selecting a polymeric squeeze bulb having a maximum pumping capacity that is below the predetermined volume whereby the selective squeeze bulb is affixed to the container.

Applicants submit that the method of Claim 22 is novel and non-obvious in view of the prior art. Furthermore, Applicants submit that the invention recited by Claim 22 is a product of a long felt need and failure of others. Glass smoke tubes first came about over 50 years ago for generating, for example, irritant smoke so as to test the fit of respirators. With these smoke tubes, a separate aspirator bulb was required and affixed to a broken end of the glass smoke tube

and then operated to pump air to react with the substance stored in the glass container, thereby generating irritant smoke.

Beginning 50 years ago, the glass smoke tubes presented persistent problems. First, the glass tubes were prone to accidental breakage. Secondly, a pump had to be found, matched to the tube, and carried up to the test site. Thirdly, the task of breaking the glass could be cumbersome and dangerous. By 1971, a growing concern had emerged that the irritant smoke fit testing method presented a risk of overexposure to the test subject. In 1994, OSHA announced that improvements to the standard irritant smoke fit test protocol were necessary. Some in industry called for the abolition of the irritant smoke fit test protocol all together. OSHA decided that the irritant smoke fit test protocol was necessary to ensure the safety of respiratory users. Thus, OSHA proposed eliminating the use of aspirator bulbs and requiring use of a low flow pump design not to exceed a flow rate of 200 ml/min. OSHA called for comments from the industry and received much feedback and alternative proposals. The compromise resulted in the present standard. This standard allows for use of an aspirator or a low flow pump, as long as the capacity of the pump does not exceed 200 ml/min.

The OSHA (and industry wide) effort discussed above failed to adequately address the overexposure problem. A user can still place an oversized pump or aspirator bulb on a broken end of a glass smoke tube. The invention recited by Claim 22 successfully addresses this long felt need by fixing a pump of known capacity to the storage container. Specifically, Claim 22 provides selection of a polymeric squeeze bulb having a maximum pumping capacity that is below a predetermined volume, whereby the selected squeeze bulb if affixed to the container. Moreover, the long standing problems of accidental breakage, dangerous and cumbersome glass breakage are also addressed.

Accordingly, Claim 22 and claims dependent from Claim 22 are in condition for allowance.

Claim 73 recites a method of fit testing respiratory protection equipment that includes the step of storing a chemical substance in a breakable glass enclosure disposed within the container. As discussed previously with respect to Claim 1, the inclusion of this limitation in this claim method places the claim in condition for allowance.

New independent Claims 77, 80, and 85 are also submitted with the present Amendment. Each of these claims includes subject matter either previously discussed or which the Examiner has indicated to be patentable subject matter. Accordingly, each of these claims and the claims dependent from these claims are in condition for allowance.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

No fee is believed to be due at this time. If the appropriate Petition for an Extension of Time is not attached hereto (or any other Petition required of the application), this statement shall serve as Applicants' Petition to the U.S.P.T.O. The Commissioner is hereby authorized to charge any additional fees or credit any overpayments related to this response to Deposit Account No. **50-0997 (STDL-P02054US1)**, maintained by Paula D. Morris & Associates, P.C. d/b/a The Morris Law Firm, P.C..

The undersigned is available for consultation at any time, if the Examiner believes such consultation may expedite the resolution of any issues.

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Respectfully submitted,

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